

TEXT OF AMENDMENT IN PART B TO BE CONSIDERED AS ADOPTED

**AMENDMENT TO MR. OBERSTAR'S AMENDMENT IN
THE NATURE OF A SUBSTITUTE TO H.R. 2881
OFFERED BY MR. RANGEL OF NEW YORK**

At the end of the bill, add the following:

**1 TITLE X—AIRPORT AND AIRWAY
2 TRUST FUND FINANCING**

3 SEC. 1001. SHORT TITLE.

4 This title may be cited as the “Airport and Airway
5 Trust Fund Financing Act of 2007”.

**6 SEC. 1002. EXTENSION AND MODIFICATION OF TAXES
7 FUNDING AIRPORT AND AIRWAY TRUST
8 FUND.**

9 (a) RATE OF TAX ON AVIATION-GRADE KEROSENE
10 AND AVIATION GASOLINE.—

11 (1) AVIATION-GRADE KEROSENE.—Subpara-
12 graph (A) of section 4081(a)(2) of the Internal Rev-
13 enue Code of 1986 (relating to rates of tax) is
14 amended by striking “and” at the end of clause (ii),
15 by striking the period at the end of clause (iii) and
16 inserting “, and”, and by adding at the end the fol-
17 lowing new clause:

18 “(iv) in the case of aviation-grade ker-
19 osene, 35.9 cents per gallon.”.

1 (2) AVIATION GASOLINE.—Clause (ii) of section
2 4081(a)(2)(A) of such Code is amended by striking
3 “19.3 cents” and inserting “24.1 cents”.

4 (3) FUEL REMOVED DIRECTLY INTO FUEL
5 TANK OF AIRPLANE USED IN NONCOMMERCIAL AVIA-
6 TION.—Subparagraph (C) of section 4081(a)(2) of
7 such Code is amended to read as follows:

8 “(C) TAXES IMPOSED ON FUEL USED IN
9 COMMERCIAL AVIATION.— In the case of avia-
10 tion-grade kerosene which is removed from any
11 refinery or terminal directly into the fuel tank
12 of an aircraft for use in commercial aviation by
13 a person registered for such use under section
14 4101, the rate of tax under subparagraph
15 (A)(iv) shall be 4.3 cents per gallon.”.

16 (4) CONFORMING AMENDMENTS.—

17 (A) Clause (iii) of section 4081(a)(2)(A) of
18 such Code is amended by inserting “other than
19 aviation-grade kerosene” after “kerosene”.

20 (B) The following provisions of such Code
21 are each amended by striking “kerosene” and
22 inserting “aviation-grade kerosene”:

23 (i) Section 4081(a)(3)(A)(ii).

24 (ii) Section 4081(a)(3)(A)(iv).

25 (iii) Section 4081(a)(3)(D).

1 (C) Section 4081(a)(3)(D) of such Code is
2 amended—

3 (i) by striking “paragraph (2)(C)(i)”
4 in clause (i) and inserting “paragraph
5 (2)(C)”, and

6 (ii) by striking “paragraph (2)(C)(ii)”
7 in clause (ii) and inserting “paragraph
8 (2)(A)(iv)”.

9 (D) Section 4081(a)(4) of such Code is
10 amended in the heading by striking “KER-
11 OSENE” and inserting “AVIATION-GRADE KER-
12 OSENE”.

13 (E) Section 4081(d)(2) of such Code is
14 amended by inserting “, (a)(2)(A)(iv),” after
15 “subsections (a)(2)(A)(ii)”.

16 (b) EXTENSION.—

17 (1) FUELS TAXES.—Paragraph (2) of section
18 4081(d) of such Code is amended by striking “gal-
19 lon—” and all that follows and inserting “gallon
20 after September 30, 2011”.

21 (2) TAXES ON TRANSPORTATION OF PERSONS
22 AND PROPERTY.—

23 (A) PERSONS.—Clause (ii) of section
24 4261(j)(1)(A) of such Code is amended by

1 striking “September 30, 2007” and inserting
2 “September 30, 2011”.

3 (B) PROPERTY.—Clause (ii) of section
4 4271(d)(1)(A) of such Code is amended by
5 striking “September 30, 2007” and inserting
6 “September 30, 2011”.

7 (c) EXEMPTION FOR AVIATION-GRADE KEROSENE
8 REMOVED INTO AN AIRCRAFT.—Subsection (e) of section
9 4082 of such Code is amended—

10 (1) by striking “kerosene” and inserting “avia-
11 tion-grade kerosene”,

12 (2) by striking “section 4081(a)(2)(A)(iii)” and
13 inserting “section 4081(a)(2)(A)(iv)”, and

14 (3) by striking “KEROSENE” in the heading
15 and inserting “AVIATION-GRADE KEROSENE”.

16 (d) RETAIL TAX ON AVIATION FUEL.—

17 (1) EXEMPTION FOR PREVIOUSLY TAXED
18 FUEL.—Paragraph (2) of section 4041(c) of such
19 Code is amended by inserting “at the rate specified
20 in subsection (a)(2)(A)(iv) thereof” after “section
21 4081”.

22 (2) RATE OF TAX.—Paragraph (3) of section
23 4041(c) of such Code is amended to read as follows:

24 “(3) RATE OF TAX.—The rate of tax imposed
25 by this subsection shall be the rate of tax in effect

1 under section 4081(a)(2)(A)(iv) (4.3 cents per gallon
2 with respect to any sale or use for commercial avia-
3 tion).”.

4 (e) REFUNDS RELATING TO AVIATION-GRADE KER-
5 OSENE.—

6 (1) KEROSENE USED IN COMMERCIAL AVIA-
7 TION.—Clause (ii) of section 6427(l)(4)(A) of such
8 Code is amended by striking “specified in section
9 4041(c) or 4081(a)(2)(A)(iii), as the case may be,”
10 and inserting “so imposed”.

11 (2) KEROSENE USED IN AVIATION.—Paragraph
12 (4) of section 6427(l) of such Code is amended—

13 (A) by striking subparagraph (B) and re-
14 designating subparagraph (C) as subparagraph
15 (B), and

16 (B) by amending subparagraph (B), as re-
17 designated by subparagraph (A), to read as fol-
18 lows:

19 “(B) PAYMENTS TO ULTIMATE, REG-
20 ISTERED VENDOR.—With respect to any ker-
21 osene used in aviation (other than kerosene to
22 which paragraph (6) applies), if the ultimate
23 purchaser of such kerosene waives (at such time
24 and in such form and manner as the Secretary
25 shall prescribe) the right to payment under

1 paragraph (1) and assigns such right to the ul-
2 timate vendor, then the Secretary shall pay
3 (without interest) the amount which would be
4 paid under paragraph (1) to such ultimate ven-
5 dor, but only if such ultimate vendor—

6 “(i) is registered under section 4101,
7 and

8 “(ii) meets the requirements of sub-
9 paragraph (A), (B), or (D) of section
10 6416(a)(1).”.

11 (3) AVIATION-GRADE KEROSENE NOT USED IN
12 AVIATION.—Subsection (l) of section 6427 of such
13 Code is amended by redesignating paragraph (5) as
14 paragraph (6) and by inserting after paragraph (4)
15 the following new paragraph:

16 “(5) REFUNDS FOR AVIATION-GRADE KER-
17 OSENE NOT USED IN AVIATION.—If tax has been im-
18 posed under section 4081 at the rate specified in
19 section 4081(a)(2)(A)(iv) and the fuel is used other
20 than in an aircraft, the Secretary shall pay (without
21 interest) to the ultimate purchaser of such fuel an
22 amount equal to the amount of tax imposed on such
23 fuel reduced by the amount of tax that would be im-
24 posed under section 4041 if no tax under section
25 4081 had been imposed.”.

1 (4) CONFORMING AMENDMENTS.—

2 (A) Section 6427(i)(4) of such Code is
3 amended—

4 (i) by striking “(4)(C)” the first two
5 places it occurs and inserting “(4)(B)”,
6 and

7 (ii) by striking “, (l)(4)(C)(ii), and”
8 and inserting “and”.

9 (B) Section 4082(d)(2)(B) of such Code is
10 amended by striking “6427(l)(5)(B)” and in-
11 serting “6427(l)(6)(B)”.

12 (f) AIRPORT AND AIRWAY TRUST FUND.—

13 (1) EXTENSION OF TRUST FUND AUTHORI-
14 TIES.—

15 (A) EXPENDITURES FROM TRUST FUND.—
16 Paragraph (1) of section 9502(d) of such Code
17 is amended—

18 (i) in the matter preceding subpara-
19 graph (A) by striking “October 1, 2007”
20 and inserting “October 1, 2011”, and

21 (ii) in subparagraph (A) by inserting
22 “or the FAA Reauthorization Act of 2007”
23 before the semicolon at the end.

24 (B) LIMITATION ON TRANSFERS TO TRUST
25 FUND.—Paragraph (2) of section 9502(f) of

1 such Code is amended by striking “October 1,
2 2007” and inserting “October 1, 2011”.

3 (2) TRANSFERS TO TRUST FUND.—Subpara-
4 graph (C) of section 9502(b)(1) of such Code is
5 amended to read as follows:

6 “(C) section 4081 with respect to aviation
7 gasoline and aviation-grade kerosene, and”.

8 (3) TRANSFERS ON ACCOUNT OF CERTAIN RE-
9 FUNDS.—

10 (A) IN GENERAL.—Subsection (d) of sec-
11 tion 9502 of such Code is amended—

12 (i) in paragraph (2) by striking
13 “(other than subsection (l)(4) thereof”,
14 and

15 (ii) in paragraph (3) by striking
16 “(other than payments made by reason of
17 paragraph (4) of section 6427(l))”.

18 (B) CONFORMING AMENDMENTS.—

19 (i) Section 9503(b)(4) of such Code is
20 amended by striking “or” at the end of
21 subparagraph (C), by striking the period
22 at the end of subparagraph (D) and insert-
23 ing a comma, and by inserting after sub-
24 paragraph (D) the following:

1 “(E) section 4081 to the extent attrib-
2 utable to the rate specified in clause (ii) or (iv)
3 of section 4081(a)(2)(A), or
4 “(F) section 4041(c).”.

5 (ii) Section 9503(c) of such Code is
6 amended by striking the last paragraph
7 (relating to transfers from the Trust Fund
8 for certain aviation fuel taxes).

9 (iii) Section 9502(a) of such Code is
10 amended by striking “, section
11 9503(c)(7),”.

12 (4) TRANSFERS ON ACCOUNT OF AVIATION-
13 GRADE KEROSENE NOT USED IN AVIATION.—Section
14 9502(d) of such Code is amended by adding at the
15 end the following new paragraph:

16 “(7) TRANSFERS FROM AIRPORT AND AIRWAY
17 TRUST FUND ON ACCOUNT OF AVIATION-GRADE
18 KEROSENE NOT USED IN AVIATION.—The Secretary
19 of the Treasury shall pay from time to time from the
20 Airport and Airway Trust Fund into the Highway
21 Trust Fund amounts as determined by the Secretary
22 of the Treasury equivalent to amounts transferred to
23 the Airport and Airway Trust Fund with respect to
24 aviation-grade kerosene not used in aviation.”.

1 (5) EXPENDITURES FOR AIR TRAFFIC CONTROL
2 MODERNIZATION.—Section 9502(d) of such Code, as
3 amended by this title, is amended by adding at the
4 end the following new paragraph:

5 “(8) EXPENDITURES FOR AIR TRAFFIC CON-
6 TROL MODERNIZATION.—The following amounts
7 may be used only for making expenditures to carry
8 out air traffic control modernization:

9 “(A) So much of the amounts appropriated
10 under subsection (b)(1)(C) as the Secretary es-
11 timates are attributable to—

12 “(i) 14.1 cents per gallon of the tax
13 imposed at the rate specified in section
14 4081(a)(2)(A)(iv) in the case of aviation-
15 grade kerosene used other than in commer-
16 cial aviation (as defined in section
17 4083(b)), and

18 “(ii) 4.8 cents per gallon of the tax
19 imposed at the rate specified in section
20 4081(a)(2)(A)(ii) in the case of aviation
21 gasoline used other than in commercial
22 aviation (as so defined).

23 “(B) Any amounts credited to the Airport
24 and Airway Trust Fund under section 9602(b)

1 with respect to amounts described in this para-
2 graph.”.

3 (g) EFFECTIVE DATE.—

4 (1) MODIFICATIONS.—Except as provided in
5 paragraph (2), the amendments made by this section
6 shall apply to fuels removed, entered, or sold after
7 December 31, 2007.

8 (2) EXTENSIONS.—The amendments made by
9 subsections (b) and (f)(1) shall take effect on the
10 date of the enactment of this Act.

11 (h) FLOOR STOCKS TAX.—

12 (1) IMPOSITION OF TAX.—In the case of avia-
13 tion fuel which is held on January 1, 2008, by any
14 person, there is hereby imposed a floor stocks tax on
15 aviation fuel equal to—

16 (A) the tax which would have been imposed
17 before such date on such fuel had the amend-
18 ments made by this section been in effect at all
19 times before such date, reduced by

20 (B) the sum of—

21 (i) the tax imposed before such date
22 on such fuel under section 4081 of the In-
23 ternal Revenue Code of 1986, as in effect
24 on such date, and

1 (ii) in the case of kerosene held exclu-
2 sively for such person's own use, the
3 amount which such person would (but for
4 this clause) reasonably expect (as of such
5 date) to be paid as a refund under section
6 6427(l) of such Code with respect to such
7 kerosene.

8 (2) LIABILITY FOR TAX AND METHOD OF PAY-
9 MENT.—

10 (A) LIABILITY FOR TAX.—A person hold-
11 ing aviation fuel on January 1, 2008, shall be
12 liable for such tax.

13 (B) TIME AND METHOD OF PAYMENT.—
14 The tax imposed by paragraph (1) shall be paid
15 on April 30, 2008, and in such manner as the
16 Secretary of the Treasury shall prescribe.

17 (3) TRANSFER OF FLOOR STOCK TAX REVE-
18 NUES TO TRUST FUNDS.—For purposes of deter-
19 mining the amount transferred to the Airport and
20 Airway Trust Fund, the tax imposed by this sub-
21 section shall be treated as imposed by the provision
22 of section 4081 of the Internal Revenue Code of
23 1986 which applies with respect to the aviation fuel
24 involved.

1 (4) DEFINITIONS.—For purposes of this sub-
2 section—

3 (A) AVIATION FUEL.—The term “aviation
4 fuel” means aviation-grade kerosene and avia-
5 tion gasoline, as such terms are used within the
6 meaning of section 4081 of the Internal Rev-
7 enue Code of 1986.

8 (B) HELD BY A PERSON.—Aviation fuel
9 shall be considered as held by a person if title
10 thereto has passed to such person (whether or
11 not delivery to the person has been made).

12 (C) SECRETARY.—The term “Secretary”
13 means the Secretary of the Treasury or the
14 Secretary’s delegate.

15 (5) EXCEPTION FOR EXEMPT USES.—The tax
16 imposed by paragraph (1) shall not apply to any
17 aviation fuel held by any person exclusively for any
18 use to the extent a credit or refund of the tax is al-
19 lowable under the Internal Revenue Code of 1986
20 for such use.

21 (6) EXCEPTION FOR CERTAIN AMOUNTS OF
22 FUEL.—

23 (A) IN GENERAL.—No tax shall be im-
24 posed by paragraph (1) on any aviation fuel
25 held on January 1, 2008, by any person if the

1 aggregate amount of such aviation fuel held by
2 such person on such date does not exceed 2,000
3 gallons. The preceding sentence shall apply only
4 if such person submits to the Secretary (at the
5 time and in the manner required by the Sec-
6 retary) such information as the Secretary shall
7 require for purposes of this subparagraph.

8 (B) EXEMPT FUEL.—For purposes of sub-
9 paragraph (A), there shall not be taken into ac-
10 count any aviation fuel held by any person
11 which is exempt from the tax imposed by para-
12 graph (1) by reason of paragraph (6).

13 (C) CONTROLLED GROUPS.—For purposes
14 of this subsection—

15 (i) CORPORATIONS.—

16 (I) IN GENERAL.—All persons
17 treated as a controlled group shall be
18 treated as 1 person.

19 (II) CONTROLLED GROUP.—The
20 term “controlled group” has the
21 meaning given to such term by sub-
22 section (a) of section 1563 of such
23 Code; except that for such purposes
24 the phrase “more than 50 percent”
25 shall be substituted for the phrase “at

1 least 80 percent” each place it ap-
2 pears in such subsection.

3 (ii) NONINCORPORATED PERSONS
4 UNDER COMMON CONTROL.—Under regula-
5 tions prescribed by the Secretary, prin-
6 ciples similar to the principles of subpara-
7 graph (A) shall apply to a group of per-
8 sons under common control if 1 or more of
9 such persons is not a corporation.

10 (7) OTHER LAWS APPLICABLE.—All provisions
11 of law, including penalties, applicable with respect to
12 the taxes imposed by section 4081 of such Code on
13 the aviation fuel involved shall, insofar as applicable
14 and not inconsistent with the provisions of this sub-
15 section, apply with respect to the floor stock taxes
16 imposed by paragraph (1) to the same extent as if
17 such taxes were imposed by such section.